

Opinion
No. 1217

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DISTRICT OF COLUMBIA
TAX DIVISION

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TAX DIVISION

FILED

DISTRICT OF COLUMBIA REDEVELOPMENT LAND
AGENCY AND TRILON PLAZA COMPANY

Petitioners

-v.-

Docket Nos. 2448 and 2512
(consolidated)

DISTRICT OF COLUMBIA

Respondent

MEMORANDUM OPINION

Petitioners District of Columbia Redevelopment Land Agency "hereinafter cited as" (DCRLA) and Trilon Plaza Company appeal from real property assessments for fiscal years 1977 and 1978. This Court has jurisdiction pursuant to D.C. Code 11-1201, 47-3303, 3304 and 3305 (1981 ed.).

The petitioners appeal only that part of the assessment that involves the value of the land, and they have conceded that the value assigned to the improvements is correct, however, respondent in answer to the petition has pleaded the correctness of its assessment.

The subject property is Lot 128 in Square 472, improved by premises known as 901 6th Street, S.W., in the District of Columbia.. The land is owned by DCRLA and is currently leased to Trilon under an assignment of lease dated February 3, 1978, to pay all real estate taxes assessed against the subject. The term of said lease will expire December 2, 2062.

The assessor valued the property at \$9,500,000, consisting of land valued at \$2,640,096 and improvements at \$6,859,904. During the trial, respondent moved to amend its answer as to assessed value, to conform to the opinion of value given by Mr. Harps (respondent's expert) at the trial. Mr. Harps' estimated the value of the property to be \$9,070,000, consisting of land valued at \$1,627,500 and the improvements at \$7,442,500.^{1/} The Court took this motion under advisement, and now will grant the respondents' motion to amend its answer to conform to the estimate of value given by its expert.

All taxes were paid prior to the filing of this appeal.^{2/}

^{1/} See T. R. at p. 151 February 4, 1980.

^{2/} See District of Columbia v. Rowntree, 155 U.S.App.D.C. 196, 466 F.2d 367 (1972); George Hyman Constr. Co. v. District of Columbia, 315 A.2d 175 (D.C.App. 1974); Wagshall v. District of Columbia, 430 A.2d 524 (D.C.App. 1981).

I

Petitioner first claims that by the filing of its petition wherein it conceded that respondent's valuation of the building was correct, that it had a right to contest only the land valuation of the assessment. Petitioner further urges upon this Court that respondent never raised the issue of the valuation of the building in its pleadings, and therefore the respondent should have been barred from introducing any evidence as to that value.

The record does not support such contentions as a reading of respondent's answer clearly shows that it placed the entire assessment in issue, thereby putting the petitioner on notice of its opposition to the assessment.

Next petitioner claims that it has a right to contest only the land valuation of the assessment, thereby limiting the respondent's opposition to the petition. In support of this position, petitioner cites Judge Penn's opinions in tax dockets nos. 2288, 2289, 2290, 2370 and 2372.

A careful reading of these opinions, which however are not binding on this Court but are persuasive, indicate otherwise and there is no doubt that these opinions recognize that a taxpayer by appealing an assessment places both the land and building valuation in issue.

It is clear from a reading of the D.C. Code, 1973 ed., §47-642(a) (Supp V, 1978) now §47-821, that an assessment of real property includes the valuation of both land and improvement. This section reads as follows:

"(a) The Mayor shall assess all real property, identifying separately the value of the land and improvements thereon . . ."

Also section 47-3303 states as follows:

"The Court may affirm, cancel, reduce or increase the assessment."

In addition, section 47-825(1) gives any taxpayer who is aggrieved by an assessment, classification, equalization or valuation the right to appeal a decision from the Board of Equalization and Review to this Court. Thus there is no dispute that a taxpayer who appeals a real property assessment from the Board to this Court could have this assessment affirmed, cancelled, reduced or increased. It is also undisputed that the value of the land and improvements together make up the assessment. It therefore follows that when a taxpayer appeals an assessment, he opens the door to possible changes, upward or

downward, in the value of either the land or improvement, or both, even though he has contested only one part of the assessment.

II

Next petitioner contends that the value of the land on January 1, 1976, valuation date for fiscal years 1977-1978,^{3/} is the same as the option price \$819,567.65. Petitioner submits that the value of the land to the taxpayer is limited by the arms-length agreement (option price) for the land, for the 99-year option period. Since a willing buyer would pay no more for the property during the option period, which runs until June 2, 1992, and because a willing seller cannot sell the property for more than the option price, the land value must be limited to this amount. This Court would disagree.

"When the owner is not tax exempt, the tax is on the value of the property, not the value of the owner's interest; and it falls upon the owner of title, even where the right to use of the land has been transferred in a 99-year lease." (Springfield Marine Bank v. Property Tax Appeal Bd.) 256 N.E.2d 334 (Ill. 1970), citing, People ex rel. Harding v. City of Chicago, 335 Ill. 450, 167 N.E. 79 (1929). Likewise, this Court believes that it is the capacity for earning income, rather than the income actually derived that may reflect the true market value for taxation purposes. Further, the tax levied is a tax upon the whole land, and not merely on the interest of a particular person therein, and to achieve the essential indiscriminate and full measure of taxation of real property as a whole, it is not generally proper or necessary that separate legal interests in a piece of property be independently assessed.

In arriving at the true value for tax assessment purposes of real property subject to a lease, an appraisal is to be made of the property as a whole regardless of the effect of the lease upon the value of the owner's interest, People ex rel. Gale v. Tax Commission of City of New York, 17 App.Div.2d 225, 233 N.Y.S.2d 501 (App.Div. 1962). Also the Court notes that §47-020 requires the Mayor to determine the assessed value for all real property by estimating the market values of such property as of January 1st of the year preceding the tax.

^{3/} See Stipulation No. 4 as to Stipulated date of valuation for the tax years in question.

III

Finally in reviewing the testimony of the respective experts, this Court finds that the estimate of value given by the respondent's witness, Mr. Harps, is more convincing than the estimate given by the petitioners' expert. It is clear that the value of real property may not be limited to an arms-length agreement for purposes of taxation. Springfield Marine Bank, supra. The property's capacity for earning income, as opposed to income actually derived from the property is what mirrors the true market value of real property for taxation purposes. Therefore, in determining the true value of property subject to a lease, an appraisal is made of the property as a whole, regardless of the effect of the lease upon the value of the owner's interest. People ex. rel. Gale, supra.

The credible evidence supports a finding that the true market value of the subject property is \$9,070,000 comprised of land at \$1,627,500 and the improvements at \$7,442,500, thereby entitling the petitioner to a refund of the difference between the taxes paid at the previous assessed value of \$9,500,000 and the finding by the Court of a true market value of \$9,070,000, plus interest.

ORDER

THEREFORE, it is this 11th day of October, 1903

ORDERED that the respondent shall submit findings of facts, conclusions of law and order within fifteen days consistent with this opinion.



JUDGE

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10/12/03